



**WISCONSIN SUPREME COURT  
FRIDAY, SEPTEMBER 9, 2005  
9:45 a.m.**

04AP958-CR } State v. Bill Paul Marquardt  
04AP1609-CR }

*This is a certification from the Wisconsin Court of Appeals, District III (headquartered in Wausau). The Court of Appeals may certify cases that cannot be decided by applying current Wisconsin law. The Wisconsin Supreme Court, as the state's preeminent law-developing court, often accepts such certifications from the Court of Appeals. This case originated in Chippewa County Circuit Court, Judge Roderick A. Cameron presiding.*

These appeals arise from a police search of an Eau Claire County residence. The Supreme Court is expected to use this case to clarify several matters relating to the admission of evidence in criminal proceedings. Specifically, the Court will examine the application of the good-faith exception to the exclusionary rule and the doctrine of inevitable discovery.

The good-faith exception to the exclusionary rule covers situations in which police believe they have secured a valid search warrant, collect evidence, and then discover that the warrant was flawed. The good-faith exception says this evidence might be admissible in spite of the constitutional violation. The doctrine of inevitable discovery says that illegally obtained evidence that would likely have been discovered anyway is generally admissible in court. Here is the background: Bill P. Marquardt's mother was found murdered in her Chippewa County home on March 13, 2000. Police attempted to contact Marquardt at his cabin in Eau Claire County and learned from his neighbor that the neighbor's dog had been shot several days before Marquardt's mother's body was discovered. Police collected shell casings from the neighbor's yard and secured a search warrant for Marquardt's residence. They found animal carcasses and firearms in his home and issued a warrant for his arrest on charges of animal cruelty.

Police then applied for and received a warrant to search Marquardt's home. Soon after they conducted the search, crime lab tests were completed and matched shell casings from the neighbor's yard to the gun used to kill Marquardt's mother. This evidence, combined with blood on Marquardt's shoes and on a folding knife he was carrying when he returned home several days later from a trip to Florida led prosecutors to charge him with his mother's murder.

Two separate cases against Marquardt – the animal cruelty case in Eau Claire County and the homicide case in Chippewa County – moved forward. The animal cruelty charges resulted in a conviction after which Marquardt was found not guilty by reason of mental disease or defect and was committed to an institution. His appeal of that conviction raises several issues including whether the search of his cabin was legal. The judge in that case concluded that, while the search warrant did not contain adequate information, the search itself was legal because the officers believed they had a valid warrant. The good-faith exception applied.

The Chippewa County Circuit Court, however, reached the opposite conclusion and the homicide has arrived at the Supreme Court by appeal from the State. The

Chippewa court found that the search was illegal because there was not sufficient information presented in the warrant application to support probable cause. The Chippewa judge ruled that the search warrant application was so lacking in probable cause that a reasonably well-trained officer should have known that the search was illegal in spite of the authorization. Having decided that the good-faith exception did not apply, the judge suppressed the evidence that police had seized from Marquardt's cabin. The Court of Appeals certified the issue to the Supreme Court. The homicide case is now on hold pending the outcome of this appeal to the Supreme Court.

In the Supreme Court, the State argues that police had – and shared with the district attorney – more evidence of Marquardt's probable involvement in the crime than was presented in the search warrant application. The Supreme Court will decide whether information that is known to police but excluded from a warrant application can be considered in determining whether the officers acted in good faith, and will determine whether the evidence gathered from Marquardt's cabin may be used in the homicide case against him.